

AMENDED IN SENATE AUGUST 16, 1999

AMENDED IN ASSEMBLY MAY 18, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1509

Introduced by Assembly Member Machado

February 26, 1999

An act to amend Sections 1748.10 and 1748.12 of the Civil Code, relating to credit card issuers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1509, as amended, Machado. Credit cards: marketing information.

Existing law requires a credit card issuer to provide written notice to all persons who are holders of the issuer's credit cards if the issuer discloses marketing information, as defined, concerning a consumer which discloses the consumer's identity to any person, except specified 3rd parties. The notice is required to describe the cardholder's right to prohibit this disclosure. Existing law specifies the methods of satisfying this requirement.

This bill would recast this provision to, among other things, require that a credit card issuer provide the notice before the issuer discloses the information and, if the information is disclosed, at least once per year, *as specified*. The bill would also revise the definition of marketing information, as specified, and exempt communications to a corporate

subsidiary or affiliate of the card issuer that are not used for marketing purposes from the disclosure prohibition.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1748.10 of the Civil Code is
2 amended to read:

3 1748.10. This act shall be known and may be cited as
4 the "Areias Credit Card Full Disclosure Act Of 1986."

5 SEC. 2. Section 1748.12 of the Civil Code is amended
6 to read:

7 1748.12. (a) For purposes of this section:

8 (1) "Cardholder" means any consumer to whom a
9 credit card is issued, provided that in cases when more
10 than one credit card has been issued for the same account,
11 all persons holding those credit cards may be treated as
12 a single cardholder.

13 (2) "Credit card" means any card, plate, coupon book,
14 or other single credit device existing for the purpose of
15 being used from time to time upon presentation to obtain
16 money, property, labor, or services on credit. "Credit
17 card" does not mean any of the following:

18 (A) Any single credit device used to obtain telephone
19 property, labor, or services in any transaction under
20 public utility tariffs.

21 (B) Any device that may be used to obtain credit
22 pursuant to an electronic fund transfer but only if the
23 credit is obtained under an agreement between a
24 consumer and a financial institution to extend credit
25 when the consumer's asset account is overdrawn or to
26 maintain a specified minimum balance in the consumer's
27 asset account.

28 (C) Any key or card key used at an automated
29 dispensing outlet to obtain or purchase petroleum
30 products, as defined in subdivision (c) of Section 13401 of
31 the Business and Professions Code, which will be used
32 primarily for business rather than personal or family
33 purposes.



1 (3) “Marketing information” means the
2 categorization of cardholders compiled by a credit card
3 issuer, based on a cardholder’s shopping patterns,
4 spending history, or behavioral characteristics derived
5 from account activity which is provided to a marketer of
6 goods or services or a subsidiary or affiliate organization
7 of the company that collects the information for
8 consideration. “Marketing information” does not include
9 aggregate data which does not identify a cardholder
10 based on the cardholder’s shopping patterns, spending
11 history, or behavioral characteristics derived from
12 account activity or any communications to any person in
13 connection with any transfer, processing, billing,
14 collection, chargeback, fraud prevention, credit card
15 recovery, or acquisition of or for credit card accounts.

16 (b) At least 60 days prior to the initial disclosure of
17 marketing information concerning a cardholder to any
18 person, the credit card issuer shall provide a written
19 notice to the cardholder that clearly and conspicuously
20 describes the cardholder’s right to prohibit the disclosure
21 ~~to marketers of goods or services of marketing of~~
22 *marketing* information concerning the cardholder which
23 discloses the cardholder’s identity. The notice shall
24 ~~include a preprinted form in 10-point type by which the~~
25 ~~cardholder may exercise this right and shall advise the~~
26 ~~cardholder of~~ *be in 10-point type and shall advise the*
27 *cardholder of* a toll-free telephone number that the
28 cardholder may call to exercise this right. *For credit cards*
29 *issued before April 1, 2000, no notice need be furnished*
30 *to a cardholder as to whom marketing information will*
31 *not be disclosed or to whom notice has been given prior*
32 *to April 1, 2000, that was in accordance with the*
33 *then-existing law.*

34 ~~(c) The requirements of subdivision (b) shall be~~
35 ~~satisfied by furnishing to the cardholder a preprinted~~
36 ~~form in 10-point type for the cardholder that clearly and~~
37 ~~conspicuously describes the cardholder’s right to prohibit~~
38 ~~the disclosure of marketing information and a toll-free~~
39 ~~telephone number that the cardholder may call to~~
40 ~~exercise this right. This initial notice to the cardholder~~



1 shall be provided (1) on or with the credit application and
2 (2) on or with the credit card when it is delivered to the
3 cardholder. If a credit card issuer decides to disclose
4 marketing information after the initial receipt of the
5 credit card by the cardholder, but prior to the passing of
6 one year from the date of receipt, the issuer shall notify
7 the cardholder prior to the initial disclosure of marketing
8 information relating to the cardholder. No notice need be
9 furnished to a cardholder to whom prior notice has been
10 given, as to whom no marketing information will be
11 disclosed, or to whom notice has been given prior to the
12 effective date of this act, which complies with subdivision
13 (b).

14 (d) In addition to the initial disclosure required
15 pursuant to subdivision (b), on or after January 1, 2000,

16 (c) For all new credit cards issued on or after April 1,
17 2000, the written notice described in subdivision (b) shall
18 be furnished to the cardholder on the form containing the
19 new credit card when the credit card is delivered to the
20 cardholder. For credit cards issued prior to April 1, 2000,
21 for which written notice is required pursuant to
22 subdivision (b), the written notice shall be furnished to
23 the cardholder on a preprinted form on or before
24 December 31, 2000.

25 (d) On or after January 1, 2001, each credit card issuer
26 who discloses marketing information for consideration
27 shall clearly and conspicuously disclose, at least once per
28 calendar year, at intervals of not less than six months nor
29 more than ~~12~~ 16 months, provided that the end of the
30 16-month interval falls within the next calendar year from
31 the date the prior notice was received to every
32 cardholder entitled to receive an annual statement of
33 billings rights pursuant to 12 C.F.R.—~~226.99~~ 226.9
34 (Regulation Z) the cardholder's right to prohibit the
35 future disclosure of marketing information. The notice
36 required by this subdivision ~~and with the delivery of the~~
37 ~~renewal card~~ may be included on or with any periodic
38 statement *or with the delivery of the renewal card* and
39 shall include a preprinted form in 10-point type by which
40 the cardholder may exercise this right and shall advise the



1 cardholder of a toll-free telephone number which the
2 cardholder may call to exercise this right.

3 (e) (1) The cardholder's election to prohibit
4 disclosure of marketing information shall be effective
5 only with respect to marketing information that is
6 disclosed to any party *beginning 30 days* after the card
7 issuer has received ~~and processed~~, *at the designated*
8 *address on the form containing the new credit card or on*
9 *the preprinted form*, the cardholder's election pursuant
10 to ~~subdivision (b) or (d)~~, *not to exceed three working*
11 *weeks*, and ~~shall not apply to communications covered by~~
12 ~~subdivision (f)~~. *subdivisions (b) and (c) or subdivision*
13 *(d). This does not apply to the disclosure of marketing*
14 *information prior to the cardholder's notification to the*
15 *credit card issuer of the cardholder's election.*

16 (2) An election to prohibit disclosure of marketing
17 information, as provided in ~~subdivision (b) or~~
18 *subdivisions (b) and (c) or subdivision (d)*, shall
19 terminate upon receipt by the credit card issuer of notice
20 from the cardholder that the cardholder's election under
21 ~~subdivision (b) or subdivisions (b) and (c) or subdivision~~
22 *(d)* is no longer effective.

23 (f) The requirements of ~~subdivisions (b) and (d)~~ *this*
24 *section* do not apply to any of the following
25 communications of marketing information by a credit
26 card issuer:

27 (1) Communications to any party to, or merchant
28 specified in, the credit card agreement, or to any person
29 whose name appears on the credit card or on whose
30 behalf the credit card is issued.

31 (2) Communications to consumer credit reporting
32 agencies, as defined in subdivision (d) of Section 1785.3.

33 (3) Communications to a corporate subsidiary or
34 affiliate of the card issuer that are not used for marketing
35 purposes.

36 (4) Communications to a third party when the third
37 party is responsible for conveying information from the
38 card issuer to any of its cardholders.

39 (g) If the laws of the United States require disclosure
40 to cardholders regarding the use of personal information,



1 compliance with the federal requirements shall be
2 deemed to be compliance with this section.

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